

§ 47H-6. Title requirements.

(a) A seller may not execute a contract for deed with a purchaser if the seller does not hold title to the property. If the title is not held in fee simple, free from any deeds of trust, mortgages, or other encumbrances evidencing or securing a monetary obligation which constitutes a lien on the property, the seller may execute a contract for deed only if the mortgage or encumbrance is in the name of the seller and meets at least one of the following conditions:

- (1) It was agreed to by the purchaser, in writing, as a condition of a loan obtained to make improvements on the property.
- (2) It was placed on the property by the seller prior to the execution of the contract for deed if the seller is a licensed general contractor within the meaning of Chapter 87 of the General Statutes, a licensed manufactured home dealer within the meaning of Article 9A of Chapter 143 of the General Statutes, or a licensed real estate broker within the meaning of Chapter 93A of the General Statutes, provided that the general contractor, manufactured home dealer, or real estate broker continues to make timely payments on the outstanding mortgage or encumbrance.
- (3) It was placed on the property by the seller prior to the execution of the contract for deed, if the seller is not a licensed general contractor within the meaning of Chapter 87 of the General Statutes, a licensed manufactured home dealer within the meaning of Article 9A of Chapter 143 of the General Statutes, or a licensed real estate broker within the meaning of Chapter 93A of the General Statutes, if the lien is attached only to the property sold to the purchaser under the contract for deed, and the seller continues to make timely payments on the outstanding mortgage or encumbrance.

(b) If the property being sold is encumbered by one or more deeds of trust, mortgages, or other encumbrances evidencing or securing a monetary obligation which constitutes a lien on the property, the seller must notify the purchaser in a separate written disclosure, provided at or before the execution of the contract, in 14-point type, boldface, capital letters, the following statement: **THIS PROPERTY HAS EXISTING LIENS ON IT. IF THE SELLER FAILS TO MAKE TIMELY PAYMENTS TO THE LIEN HOLDER, THE LIEN HOLDER MAY FORECLOSE ON THE PROPERTY, EVEN IF YOU HAVE MADE ALL YOUR PAYMENTS.**

(c) In addition to any other remedies at law or equity, a seller's violation of this section entitles the purchaser to either a claim for damages or the right to rescind the contract and seek the return of all payments, deposits, and down payments that have been made under the contract. If the purchaser elects to rescind the contract, the seller is entitled to an offset of an amount equal to the fair market value of the use of the property during the duration of the purchaser's possession of the property plus an amount necessary to compensate the seller for any damages caused to the property by the purchaser beyond normal wear and tear. (2010-164, s. 4.)